

S/025/006



State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

January 17, 2006

CERTIFIED MAIL
7099 3400 0016 8895 6740

Bob Harris
West Desert Collectors
278 West Main
P.O. Box 103
Delta Utah 84624

Subject: Reconsideration of Findings of Fact, Conclusions, Order and Finalized Re-Assessment for MC-2005-02-04(1), Tetla Septarian, West Desert Collectors, S/025/006, Kane County, Utah

Dear Mr. Harris:

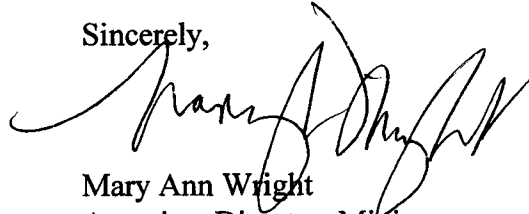
On November 17, 2005, an Informal Conference was held to review the fact of violation and proposed assessment for state violation MC- 2005-002-04(1). As a result of a review of all pertinent data and facts, including those presented in the Informal Hearing and Assessment Conference, the attached documents shall constitute the findings of fact, conclusions, order, and finalized assessment.

On January 9, 2006, Mr. Loy Crapo contacted me by phone and expressed his disappointment in the assessment conference process. He also stated that you and he have known Mike Styler for 40 years and that you may be getting in touch with me and/or Mr. Styler to express your thoughts. I responded to Mr. Crapo that I would look to see if your assessment was in line with other five-acre mine transgressions. It appears that it is within line with others given variable circumstances for each case. However, I have reassessed the penalty points given that the fine may be high for artisan miners such as West Desert Collectors. This brings your total to 23 penalty points, which carries a fine of \$506.00.

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must escrow the assessed civil penalties with the Division within thirty (30) days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division of Oil, Gas and Mining, mail c/o Vickie Southwick at the address listed above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mary Ann Wright', written over the printed name.

Mary Ann Wright
Associate Director, Mining
Assessment Conference Officer

vs

Enclosures

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BEFORE THE DIVISION OF OIL, GAS AND MINING
MINERALS REGULATORY PROGRAM
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

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IN THE MATTER OF THE Tetla	:	INFORMAL CONFERENCE
Septarian, West Desert Collectors,		For MC-2005-02-04(1)
Kane COUNTY, UTAH	:	
		FINDINGS, CONCLUSIONS
		AND ORDER
	:	CAUSE NO. S/025/006

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On November 17, 2005, the Division of Oil, Gas and Mining ("Division") held an informal conference concerning the Fact of Violation and the Assessment for Cessation Order, MC-2005-02-04(1) issued to the Tetla Septarian, West Desert Collectors, Kane County, Utah. The following individuals attended: Bob Harris for West Desert Collectors; and Doug Jensen and Daron Haddock for the Division.

Presiding: Mary Ann Wright
Associate Director, Mining
Division of Oil, Gas and Mining

Petitioner: Bob Harris
278 West Main
Box 102
Delta, UT 84624

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner and the Division in connection with this informal conference, and on information in the files of the Division.

FACTS PRESENTED: Fact of the Violation or Cessation Order

1. By letter dated September 27, 2005, Mr. Bob Harris requested an informal conference to discuss the fact of violation for Minerals Program Cessation Order MC-2005-02-03 (1).

Notice of the informal conference was properly given.

2. Pursuant to Utah Code Ann. Section 40-8- 9 and Utah Administrative Rule R647-6-102, an informal conference in the matter was held on November 17, 2005. At the informal conference, the Petitioner presented the following information to the Conference Officer.
3. The Cessation Order was issued for mining outside of the permitted 5-acre area. An area of 3.75 acres had been disturbed outside of the permitted area. Mr. Harris stated that he had Mr. Loy Crapo perform reclamation activities at this site for 10 days. He has been informed that the whole site is now regraded and reclaimed.
4. No pictures of the reclaimed areas were shown, and the division wishes to inspect it the next time they are in the area. These reclaimed area needs to be evaluated and inspected for release from the bond.
5. Doug Jensen and Daron Haddock of the Division asserted that the permit was for 5 acres, yet 8.75 acres were disturbed.

CONCLUSIONS

- Mining of septarian nodules occurred outside of the permitted 5-acre area. The Fact of the Violation (CO) should stand.

ORDER

NOW THEREFORE, it is ordered that:

- The fact of the violation (CO) stands.

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FACTS PRESENTED: Assessment of the Violation or Cessation Order

1. By letter dated September 27, 2005, Mr. Bob Harris requested an informal conference to discuss the fact of violation for Minerals Program Cessation Order MC-2005-02-03 (1). Notice of the informal conference was properly given.
2. Pursuant to Utah Code Ann. Section 40-8- 9 and Utah Administrative Rule R647-6-102, an informal assessment conference in the matter was held on November 17, 2005.

At the informal conference, the Petitioner presented the following information to the Conference Officer.3.

3. The petitioner stated that 'Yes, it was over 5 acres, but he asked someone to reclaim it for him. He contracted for 10 days of reclamation. He also stated that he has an \$8,000 bond and would send confirmation of the bond to OGM. On November 18, 2005, he faxed information on two CDs made out to Utah Trust Lands Administration for \$7,350.22 (Wells Fargo) and for \$2791.79 (Zions Bank).

CONCLUSIONS

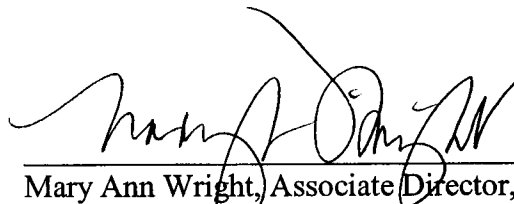
- Facts were presented which were taken into consideration of a reassessment of this cessation order. This was normal compliance of a difficult abatement.

ORDERS

NOW THEREFORE, it is ordered that:

- Ten Good Faith points are awarded (-10). The Seriousness was re-assessed at 25 points.
- The division should terminate the cessation order, effective, 2005.
- The Petitioner is required to have his reclamation bonds issued in the name of OGM in an expedient manner.
- A fine of \$506.00 is assessed and payable 30 days from receipt of this re-assessment.

SO DETERMINED AND ORDERED this 17th day of January 2006



Mary Ann Wright, Associate Director, Mining
Conference Officer
Division of Oil, Gas and Mining
State of Utah

UTAH DIVISION OF OIL, GAS AND MINING
WORKSHEET FOR FINAL RE-ASSESSMENT OF PENALTIES

COMPANY: West Desert Collectors

PERMIT: S/025/006

VIOLATION: MC-2005-02-04 (1)

ASSESSMENT CONFERENCE OFFICER: Mary Ann Wright

	Proposed Assessment	Final Assessment
(1) History/Previous Violations	<u>0</u>	<u>0</u>
(2) Seriousness	<u>28</u>	<u>25</u>
(3) Negligence	<u>8</u>	<u>8</u>
(4) Good Faith	<u>0</u>	<u>-10</u>
Total Points	<u>36</u>	<u>23</u>

TOTAL ASSESSED FINE \$ 506.00

NARRATIVE: Conducting mining outside of the 5 acre permit.

Difficult abatement; normal compliance. Bond information was sent on November 18, 2005 showing reclamation bonding with SITLA.

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

1/12/06

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